

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GUILLERMO F. GARCIA,

Plaintiff,

v.

WELLS FARGO,

Defendant.

No. CV-12-5019-EFS

**ORDER GRANTING WELLS FARGO'S
MOTION TO DISMISS, DIRECTING
ENTRY OF JUDGMENT, AND CLOSING
FILE**

After reviewing Defendant Wells Fargo's Motion to Dismiss and/or for Summary Judgment, ECF No. [39](#), the Court grants the motion and dismisses the lawsuit because 1) Plaintiff Guillermo F. Garcia did not timely opt out of the Pick-a-Payment Multi-District Litigation settlement; 2) Mr. Garcia's state-law claims are preempted by the Home Owners' Loan Act, 12 U.S.C. §§ 1461 *et seq.*, and regulations promulgated thereunder; 3) Mr. Garcia's fraud claims are untimely under Washington's three-year statute of limitations for such claims, RCW 4.16.080(4); and 4) Mr. Garcia's Truth in Lending Act (TILA) claims are untimely under TILA's one-year general statute of limitations, 15 U.S.C. § 1640(e), and three-year rescission statute of limitations, *id.* § 1635(f). This dismissal is with prejudice.

1 Because this lawsuit is dismissed, the Court will not address Mr.
2 Garcia's request for sanctions and other relief set forth in his
3 improperly-noted Motion to Dismiss with Prejudice Defendant's Motion to
4 Dismiss/Summary Judgment/Sanctionable Conduct - Request for Sanctions
5 and Fines for Slander, ECF No. [69](#).

6 Accordingly, **IT IS HEREBY ORDERED:**

7 1. Wells Fargo's Motion to Dismiss and/or for Summary Judgment,
8 **ECF No. [39](#)**, is **GRANTED**.

9 2. **Judgment** shall be entered in Wells Fargo's favor with
10 prejudice.

11 3. All pending hearings, deadlines, and motions are **STRICKEN**.

12 4. This file shall be **CLOSED**.

13 **IT IS SO ORDERED.** The Clerk's Office is hereby directed to enter
14 this Order and furnish copies to Mr. Garcia and counsel.

15 **DATED** this 30th day of October 2012.

16
17 s/ Edward F. Shea

EDWARD F. SHEA

18 Senior United States District Judge

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